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File No.: 126240

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Paul Velgos,

Plaintiff,

v.

Luxury Fine Homes, Inc.,

Defendant.

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Paul Velgos ("*Plaintiff*"), by and through his undersigned counsel, for his Complaint against defendant Luxury Fine Homes, Inc. ("*Defendant*") states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement under the Copyright Act, 17 U.S.C. §501.

2. Plaintiff created a photograph of the Corona Del Mar, California skyline (the "*Photograph*") in which Plaintiff owns the rights and licenses for various uses including online and print publications.

1 3. Defendant is a real estate company which owns and operates a website
2 at domain www.luxuryfinehomes.com (the “*Website*”).

3 4. Defendant, without permission or authorization from Plaintiff, actively
4 copied and/or displayed the Photograph on the Website and engaged in this
5 misconduct knowingly and in violation of the United States copyright laws.

6 **PARTIES**

7 5. Plaintiff Paul Velgos is an individual who is a citizen of the State of
8 Indiana and resides in Lake County, Indiana.

9 6. Upon information and belief, Defendant Luxury Fine Homes, Inc., is a
10 California corporation with a principal place of business at 3565 E. Coast Highway,
11 Corona Del Mar in Orange County, California.

12 **JURISDICTION AND VENUE**

13 7. This Court has subject matter jurisdiction over the federal copyright
14 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

15 8. This Court has personal jurisdiction over Defendant because it
16 maintains its principal place of business in California.

17 9. Venue is proper under 28 U.S.C. §1391(b)(2) because Defendant does
18 business in this Judicial District and/or because a substantial part of the events or
19 omissions giving rise to the claim occurred in this Judicial District.

20 **FACTS COMMON TO ALL CLAIMS**

21 **A. Plaintiff's Copyright Ownership**

22 10. Plaintiff is a professional photographer by trade who is the legal and
23 rightful owner of certain photographs which Plaintiff commercially licenses.

24 11. Plaintiff has invested significant time and money in building Plaintiff's
25 photograph portfolio.

26 12. Plaintiff has obtained active and valid copyright registrations from the
27 United States Copyright Office (the “*USCO*”) which cover many of Plaintiff's
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1 photographs while many others are the subject of pending copyright applications.

2 13. Plaintiff's photographs are original, creative works in which Plaintiff
3 owns protectable copyright interests.

4 14. In 2012, Plaintiff first authored the Photograph. A copy of the
5 Photograph is attached hereto as Exhibit 1.

6 15. In creating the Photograph, Plaintiff personally selected the subject
7 matter, timing, lighting, angle, perspective, depth, lens and camera equipment used
8 to capture the image.

9 16. On April 22, 2012, the Photograph was registered by the USCO under
10 Registration No. VA u 1-112-877.

11 17. Plaintiff created the Photograph with the intention of it being used
12 commercially and for the purpose of display and/or public distribution.

13 **B. Defendant's Infringing Activity**

14 18. Defendant is the registered owner of the Website and is responsible for
15 its content.

16 19. Defendant is the operator of the Website and is responsible for its
17 content.

18 20. The Website is a key component of Defendant's popular and lucrative
19 commercial enterprise.

20 21. The Website is monetized in that sells its services to the public and,
21 upon information and belief, Defendant profits from these activities.

22 22. On or about November 9, 2023, Defendant displayed the Photograph
23 on the Website as part of an on-line story at URLs:
24 <https://www.luxuryfinehomes.com/> and
25 <https://www.luxuryfinehomes.com/neighborhood> . A copy of screengrabs of the
26 Website including the Photograph is attached hereto as Exhibit 2.

27 23. The Photograph was stored at URLs: <https://images.squarespace->
28

1 [cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-](https://cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w)
2 [RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-](https://cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w)
3 [Homes.jpg?format=1500w](https://cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w) and [https://images.squarespace-](https://images.squarespace-cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w)
4 [cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-](https://cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w)
5 [RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-](https://cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w)
6 [Homes.jpg?format=1500w](https://cdn.com/content/v1/58b4b52386e6c0717e92e87a/1492153949504-RPOK1S2B2BSC3VU7H0DR/MG-4563-Newport-Beach-Luxury-Homes.jpg?format=1500w).

7 24. Without permission or authorization from Plaintiff, Defendant
8 volitionally copied and/or displayed Plaintiff's copyright protected Photograph on
9 the Website.

10 25. Plaintiff first observed and actually discovered the Infringement on
11 November 11, 2023.

12 26. Upon information and belief, the Photograph was copied and displayed
13 by Defendant without license or permission, thereby infringing on Plaintiff's
14 copyrights in and to the Photograph (hereinafter all of the unauthorized uses set forth
15 above are referred to as the "*Infringement*").

16 27. The Infringement includes a URL ("*Uniform Resource Locator*") for a
17 fixed tangible medium of expression that was sufficiently permanent or stable to
18 permit it to be communicated for a period of more than a transitory duration and
19 therefore constitutes a specific infringement. *17 U.S.C. §106(5)*.

20 28. The Infringement is an exact copy of Plaintiff's original image that was
21 directly copied and displayed by Defendant on the Website.

22 29. Upon information and belief, Defendant takes an active and pervasive
23 role in the content posted on its Website, including, but not limited to copying,
24 posting, selecting, commenting on and/or displaying images including but not
25 limited to Plaintiff's Photograph.

26 30. Upon information and belief, the Photograph was willfully and
27 volitionally posted to the Website by Defendant.
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1 31. Upon information and belief, Defendant was aware of facts or
2 circumstances from which the determination regarding the Infringement was
3 apparent. Defendant cannot claim that it was not aware of the infringing activities,
4 including the specific Infringement which form the basis of this complaint, since
5 such a claim would amount to only willful blindness to the Infringement on the part
6 of Defendant.

7 32. Upon information and belief, Defendant engaged in the Infringement
8 knowingly and in violation of applicable United States copyright laws.

9 33. Upon information and belief, Defendant has the legal right and ability
10 to control and limit the infringing activities on its Website and exercised and/or had
11 the right and ability to exercise such right.

12 34. Upon information and belief, Defendant monitors the content on its
13 Website.

14 35. Upon information and belief, Defendant has received a financial benefit
15 directly attributable to the Infringement.

16 36. Upon information and belief, the Infringement increased traffic to the
17 Website and, in turn, caused Defendant to realize an increase its revenues.

18 37. Upon information and belief, a large number of people have viewed the
19 unlawful copies of the Photograph on the Website.

20 38. Upon information and belief, Defendant at all times had the ability to
21 stop the reproduction and display of Plaintiff's copyrighted material.

22 39. Defendant's use of the Photograph, if widespread, would harm
23 Plaintiff's potential market for the Photograph.

24 40. On January 12, 2024, Plaintiff, via counsel, served a letter seeking to
25 address the complaints contained herein concerning Defendant's infringement of
26 Plaintiff's rights-protected work.

27 41. Despite Plaintiff's efforts and willingness to address Defendant's
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1 infringing activity, Defendant failed to respond and Plaintiff was forced to seek
2 judicial intervention for Defendant's infringing activity.

3 42. As a result of Defendant's misconduct, Plaintiff has been substantially
4 harmed.

5 **FIRST COUNT**

6 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

7 43. Plaintiff repeats and incorporates by reference the allegations contained
8 in the preceding paragraphs, as though set forth in full herein.

9 44. The Photograph is an original, creative work in which Plaintiff owns a
10 valid copyright.

11 45. The Photograph is properly registered with the USCO and Plaintiff has
12 complied with all statutory formalities under the Copyright Act and under
13 regulations published by the USCO.

14 46. Plaintiff has not granted Defendant a license or the right to use the
15 Photograph in any manner, nor has Plaintiff assigned any of its exclusive rights in
16 the copyright to Defendant.

17 47. Without permission or authorization from Plaintiff and in willful
18 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
19 illegally copied, reproduced, distributed, adapted, and/or publicly displayed works
20 copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its
21 copyrights.

22 48. Defendant's reproduction of the Photograph and display of the
23 Photograph constitutes willful copyright infringement.

24 49. Upon information and belief, Defendant willfully infringed upon
25 Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, in that
26 Defendant used, published, communicated, posted, publicized, and otherwise held
27 out to the public for commercial benefit, Plaintiff's original and unique Photograph
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1 without Plaintiff's consent or authority, by using it on the Website.

2 50. As a result of Defendant's violations of Title 17 of the U.S. Code,
3 Plaintiff is entitled to any an award of actual damages and disgorgement of all of
4 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504
5 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
6 statutory damages against each Defendant for each infringement pursuant to 17
7 U.S.C. § 504(c).

8 51. As a result of the Defendant's violations of Title 17 of the U.S. Code,
9 the court in its discretion may allow the recovery of full costs as well as reasonable
10 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

11 52. As a result of Defendant's violations of Title 17 of the U.S. Code,
12 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his
13 copyright pursuant to 17 U.S.C. § 502.

14 **JURY DEMAND**

15 53. Plaintiff hereby demands a trial of this action by jury.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

18 That the Court enters a judgment finding that Defendant has infringed on
19 Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 *et seq.* and
20 therefore award damages and monetary relief as follows:

- 21 a. finding that Defendant infringed Plaintiff's copyright interest in
22 and to the Photograph by copying and displaying it without a
23 license or consent;
- 24 b. for an award of actual damages and disgorgement of all of
25 Defendant's profits attributable to the infringements as provided
26 by 17 U.S.C. § 504(b) in an amount to be proven or, in the
27 alternative, at Plaintiff's election, an award for statutory damages
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1 against each Defendant for each infringement pursuant to 17
2 U.S.C. § 504(c), whichever is larger;

- 3 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant
4 from any infringing use of any of Plaintiff's works;
5 d. for costs of litigation and reasonable attorney's fees against
6 Defendant pursuant to 17 U.S.C. § 505;
7 e. for pre-judgment interest as permitted by law; and
8 f. for any other relief the Court deems just and proper.
9

10 DATED: March 4, 2024

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